SO ORDERED.

SIGNED this 15 day of December,2016.

Stephani W. Humrickhouse
United States Bankruptcy Judge

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WILMINGTON DIVISION

IN RE JOYCE M. LONEY,	)	**Case No. 16-05804-5-SWH**
Debtor.	)	**Chapter 13**
	)	**ORDER**

ORDER

This matter is before the Court on the motion of USAA Federal Savings Bank ("USAA FSB") to dismiss this bankruptcy proceeding, [D.E. 24] ("Motion to Dismiss"); the motions of Debtor Joyce Loney seeking damages for alleged violations of the automatic stay [D.E. 20] ("Motion for Sanctions") and for an extension of time to file schedules, [D.E. 36]; and the Court's Order to Appear and Show Cause for failure to file a certificate of completion for credit counseling, [D.E. 35].

On December 7, 2016, the Court ordered Joyce Loney to appear in person at a hearing on December 14, 2016 and to bring with her the keys to two vehicles. [D.E. 25]. Joyce Loney received notice of the hearing via FedEx overnight service [D.E. 26], by e-mail, and by phone [D.E. 41]. Mrs. Loney submitted several responses to the Motion to Dismiss, including an e-mail sent to the Court seventeen minutes prior to the response deadline set forth in the notice of hearing.

On December 14, 2016, the Court held a hearing on the parties' motions. Joyce Loney did not appear, despite the Court's direct order that she appear.

A proceeding under Chapter 13 may be dismissed for cause, 11 U.S.C. § 1307(c), including if the proceeding was filed in bad faith. *See Marrama v. Citizens Bank*, 549 U.S. 365, 367 (2007) ("[T]he federal courts are virtually unanimous that . . . bad-faith conduct may cause a forfeiture of any right to proceed with a Chapter 13 case. . . ."); *Kestell v. Kestell*, 99 F.3d 146, 148 (4th Cir. 1996) (noting that Chapter 13 cases may be dismissed if filed in bad faith).

After reviewing the filings and the arguments of counsel, the Court concludes that this bankruptcy proceeding was filed in bad faith by Joyce M. Loney and is an abuse of the bankruptcy process.

The debtor's pre-petition history of meritless and abusive litigation is set forth in the filings by USAA FSB, which include orders of the Middle District of North Carolina, a Brunswick County District Court, a Davidson County Superior Court, and an American Arbitration Association Award. These filings describe Loney's fabrication of evidence [D.E. 24-1] at 2; her filing of a lawsuit "for the improper purpose of harassing and imposing costs on" USAA FSB's attorneys, Order, Loney v. Phillips, No. 15-CVD-1824, at 2 (N.C.

Dist. Ct. Dec. 30, 2015) (unpublished); her "propensity to initiate duplicative and harassing litigation and to file frivolous and bad faith motions despite previous sanctions," Order and Prefiling Injunction, Loney v. USAA Federal Savings Bank, No. 1:15-CV-292, [D.E. 43] at 3 (July 13, 2016) (unpublished); her "fail[ure] to respect the authority of the courts," Order, Loney v. USAA Federal Savings Bank et al., No. 15 CVS 01517, at 6 (N.C. Super. Ct. Oct. 28, 2016) (unpublished); and her continued seeking for "new forums in which to assert frivolous claims against [USAA FSB] and their counsel," *id.* Loney has been barred from filing claims against USAA FSB and its attorneys in both federal and North Carolina state courts and has been sanctioned by the courts for harassing and vexatious litigation.

Joyce Loney also has a history of abusing the bankruptcy process, and was previously sanctioned and barred from filing bankruptcy proceedings by the Western District of Virginia. In re Loney, Pet. No. 98-04682 (Bankr. W.D. Va. 1997) (case dismissed and Loney barred from filing for bankruptcy for six years); In re Loney, Pet. No. 97-04481 (Bankr. W.D. Va. 1997) (case dismissed with prejudice with requirement that Loney must have attorney or the court's approval to file another bankruptcy proceeding); In re Loney, Pet. No. 96-00231 (Bankr. W.D. Va. 1996) (dismissed on trustee's motion to dismiss for abuse of bankruptcy process).

Loney failed to file the required schedules and statements with her bankruptcy petition, failed to file a reorganization plan, and failed to correct these deficiencies by the deadline set by the Court.

Loney failed to file a certificate of credit counseling despite receiving an extension of time to do so. Moreover, Loney failed to appear at the December 14, 2016 hearing, despite notice from the Court that she was to appear and show cause for failing to file the certificate of credit counseling.

Loney's filings admit that she filed this case to prevent USAA FSB from repossessing two vehicles, e.g., [D.E. 36], despite an order from the Middle District enjoining her from interfering with the repossession. Judgment, Loney v. USAA Federal Savings Bank, No. 1:15-cv-292-CCE-JLW, [D.E. 45] at 2 (M.D.N.C. July 13, 2016) (unpublished).

Loney's Motion for Sanctions seeks damages against USAA FSB and its attorneys in this proceeding. The motion lacks a factual basis, a conclusion that is confirmed by Loney's failure to appear and to prosecute the motion. In addition to being meritless, the motion appears to violate the prefiling injunction entered by the Middle District of North Carolina, which prohibited Loney "from filing any action . . . in any . . . federal court against USAA Federal Savings Bank, its officers and directors, and its lawyers, including the law firm Brooks, Pierce, McLendon, Humphrey & Leonard, L.L.P., and any of that firm's individual lawyers." Order and Prefiling Injunction, Loney v. USAA Federal Savings Bank, No. 1:15-cv-292-CCE-JLW, [D.E. 43] at 3 (M.D.N.C. July 13, 2016) (unpublished).

Loney's failures to file required schedules or a reorganization plan, to comply with this Court's deficiency notices, to complete the requirement for credit counseling, to prosecute a motion she brought before the Court, and to appear and show cause as ordered demonstrate an utter lack of respect for this Court.[1] These failures also show that Loney did not intend to follow through with this bankruptcy proceeding and did not file the petition for a valid reorganization purpose. Rather, the petition and Motion for Sanctions appear calculated to frustrate and delay the efforts of a secured creditor, USAA FSB, to enforce its rights; to defy an order of a U.S. District Court; and to impose additional costs by dragging USAA FSB and its attorneys through further meritless, vexatious, and harassing proceedings. Loney's pre- and post-petition conduct demonstrate that the petition was filed in bad faith. Accordingly, this proceeding is dismissed.

Moreover, Loney's litigation history makes clear that she will abuse the bankruptcy process again to frustrate USAA FSB's valid repossession efforts if allowed to do so. Accordingly, Loney is barred from filing a bankruptcy petition in this or any other federal court for a period of 180 days from the date of this order. Loney is hereby WARNED that further abuse of the bankruptcy process will result in additional sanctions.

The motion filed by debtor Joyce Loney seeking damages from USAA FSB and motion for an extension of time are denied as moot.

IT IS HEREBY ORDERED THAT

1. This bankruptcy petition is **DISMISSED** with prejudice; and
2. Joyce Loney is **PROHIBITED** from filing a bankruptcy petition in this or any other court for 180 days from the date of this order. Any attempt to file such a

[1] On that note, on December 14, 2016, Loney sent an e-mail to the Court and counsel with an attached document entitled "Writ of Error Qua Corum Nobis Residant" [*sic*] that names several judges, court clerks, attorneys, and private citizens as "counterdefendants" in an action pending before a nonexistent court.

petition shall be void and shall not operate to automatically stay any proceedings pursuant to 11 U.S.C. § 362.

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